



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

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### **Windham Planning Board Agenda November 2, 2016 7:00 pm at the Town Hall Second Floor**

#### **Attendance:**

Chairman Paul Gosselin, present  
Margaret Crisler, present  
Dan Guttman, present  
Kathleen DiFrusia (alternate), excused  
Matt Rounds (alternate), excused  
Gabe Toubia (alternate), excused  
Ross McLeod, Board of Selectmen representative, present  
Jennifer Simmons, Board of Selectmen (alternate), excused

Vice Chair Kristi St. Laurent, present  
Alan Carpenter, arrived at 8:10pm  
Ruth-Ellen Post, present

Mr. Rex Norman addressed the Board. He was hired as the new Community Development Director. He looks forward to working for the residents of Windham once again.

#### **Public Hearing**

##### **Case 2016-27 /WWPD Special Permit Application, 90 London Bridge Road (Lots 20-D-1200 & 20-E-300) continued from 10-5-16**

This application has been submitted by Edward N. Herbert Assoc., Inc. on behalf of London Bridge North, Inc. The applicant is proposing a 20-lot open space subdivision with three open space lots for a total of 23 lots. This property is in the Wetland & Watershed Protection District (WWPD), Aquifer, Floodplain and Rural Zoning Districts. The WWPD Special Permit is the discussion for this hearing.

The project has already been approved, however, it lacks the WWPD permit. The Board did not have the Keach/Nordstrom memo for the Board according to Mr. Gregory. Ms. Post summarized a memorandum from Keach/Nordstrom. The conditional approval is also contingent on the receipt of the Keach memo.

Mr. Zohdi addressed the Board to address a specific request in the memo regarding the 3% grade at the beginning of the road. Mr. Zohdi stated that there would be a public hearing for the covenants. The Chair asked staff to relay to Mr. Keach to be sure that the applicant has met all conditions of the memo. Ms. Crisler listed the dates of the approval (September 30<sup>th</sup>) and the dates of the engineer's memo (October 18<sup>th</sup>); she does not think it is good practice for the Board to proceed with applications without the proper process.

Mr. Zohdi stated that the total WWPd is 3.2 acres. The total land area is 57.59 acres. The majority of the land stays in open space, 74%.

Public discussion was opened and closed at 7:15pm.

**A motion was made by Mr. McLeod to approve the Special Permit. Seconded by Chairman Gosselin.**

Discussion

Mr. McLeod based his motion on the expert opinion of the engineer.

**The motion was amended to include all the conditions of the Keach memo. Seconded by Mr. Guttman.**

**Vote 6-0. Motion passes.**

**Case 2016-24 Major Preliminary Site Plan Application (Lot 11-A-580 & 570) 21 Indian Rock Rd. & 1 N. Lowell Rd.**

An application has been submitted by Benchmark Engineering, Inc. on behalf of Mesiti Indian Rock Rd. LLC & Windham Lowell Rd. Development LLC for 35 free standing units of Housing for Older Persons.

Attorney Morgan Hollis, 39 East Pearl St. of Nashua addressed the Board. He reviewed the process of the Board and cited several RSAs to that point. Mr. Gregory stated that the application is complete.

**A motion was made by Ms. Crisler to accept the application as a preliminary hearing. Seconded by Ms. Crisler. Vote 6-0. Motion passes.**

Attorney Hollis reviewed the new plan and changes made from the two previous plans brought before the Board. Chairman Gosselin asked about the term "valid road". It is valid only in it has validity for the plan; there is no DOT Permit or approval at this time according to Attorney Hollis. The multi-family units have been removed from the plan. Attorney Hollis stated that the amenities for older persons were in close proximity to the proposed plan.

The extension of Eastwood would be a future Class V road according to Attorney Hollis. The Board also discussed road width. The applicant is proposing 28 feet in width yet the engineer is recommended 22 feet in width.

The plan would have 35 units and density calculations; there is no minimum lot size. The applicant would like to provide facilities for older persons, which is the second of two conditions. Attorney Hollis stated that clubhouses and gathering places are often an added cost for the applicant without the added benefit. Attorney Hollis is happy to comply with

any necessary covenants such as no school busses in the development. Attorney Hollis reviewed several condominiums ownership scenarios. Slope easements may be necessary.

Mr. Guttman cited 612.2 and asked if this plan was a permitted use in the Village Center District. According to Attorney Hollis, it is an allowed use. Mr. Guttman asked how it meets the intent of the Village Center District. Mr. McLeod asked about Section 500 of the Mr. McLeod asked how the park is integrating public space with the use of the Village Center District. Attorney Hollis stated that if the Board would like to see mixed use instead of a park, he could show that in a plan. Mr. McLeod asked about interconnectivity; he does not see it. Attorney Hollis stated that there was flexibility in the design.

Vice Chair St. Laurent suggested a phasing plan. The higher homes could be built first while other properties in the Village Center District develop. Ms. Crisler stated that the Planning Board planned for the upper levels of all of the parcels to be residential and the lower level to be commercial.

Mr. Joe Maynard addressed the Board. Mr. Maynard addressed the grading issue; there is one curved section at the top with a grade of 8%. The Board discussed the plateaus of the site and how the terrain may impact the grade of the site. Mr. Maynard mentioned that this property could potential supplement other properties in regards to sewer and septic. Mr. Maynard does not think this is a good site for a commercial plan. Preliminary traffic analysis would be 186 trips in a 24-hour period.

Mr. Carpenter arrived at 8:10pm.

The Board discussed curb cuts. Option #1: various property owners involved come up with their connection plan. Option #2: the Planning Board would assist to be sure the connectivity plan would make sense. The Board discussed the curb cuts of this property as well as the neighbors. Mr. Maynard stated that the State cannot take away a curb cut but they can state conditions of the curb cut.

Ms. Post stated that the plan is very dense. Additionally, Ms. Post asked about water and septic. The applicant is in talks with Pennichuck for a Village Center Water System. Connectivity to adjoining properties is also important. Ms. Post would like to see a water usage study.

Mr. Carpenter asked about the cul-de-sac and island. He also asked about the Route 111 access. He reviewed a traffic scenario where residents might want to use Eastwood as an outlet during high traffic times. Chairman Gosselin stated that the applicant going with Option #2 does not require facilities for elderly housing. Chairman Gosselin asked about the total number of elderly housing units in town currently and if the number was under the limit, if there was one. Mr. Gregory will research the number.

Ms. Katherine Luther, 24 Stacey Circle addressed the Board. She stated that the traffic on Route 111 is very difficult in the morning. She mentioned the level of development as well as safety issues on Hardwood Road in the winter.

Mr. Michael Hurst, 3 Eastwood Road addressed the Board. He reviewed the three traffic plans he had set forth in previous meetings. He appreciates all of the reductions on the current plan. He asked that Eastwood Road be left alone from a traffic perspective.

Mr. Travis Wilkins, 6 Eastwood Road addressed the Board. He does support the use of Eastwood Road for emergency vehicles but not for regular access. He does agree with the primary access to Route 111.

Mr. Prudeep Behl, 5 Eastwood Road addressed the Board. He suggested a circle at the top for a turn around. He would like to see a plan that meets the spirit of the Village Center District.

Mr. Timothy Pitcher addressed the Board. He is an abutter. He also has a career in development. He does think his project can have a great impact for the community. He does like the idea of the park for visual accessibility if you are driving on Route 111. He has been Master Planning on his property and coordinating with his neighbors: The Mesiti's, Mr. McCarthy and the town to name a few. The neighbors must cooperate in this process according to Mr. Pitcher.

Chairman Gosselin stated that the Board is struggling with how preliminary the plan is, particularly in reference to the proposed roads and how they may change.

Mr. Pitcher concluded by stating that the Village Center is a large parcel with many components. The Board would like to see how the plans are laid out in relation to each other.

Public discussion was closed at 9:00pm.

Mr. Carpenter appreciates the alignments of the properties. Additionally, the easement at the end of Eastwood exists. It is the job of the Planning Board to enforce current zoning laws. Mr. Carpenter stated that the applicant is well under the 2,400 feet for road length. Mr. Carpenter suggested a hammerhead and then a gate that would allow security vehicles. The Board discussed how the criteria changes if the road were to be altered. The cul-de-sac regulations are different than a thru-road.

Mr. McLeod then mentioned how traffic and road curvature could be reconfigured to handle speed and traffic.

Vice Chair St. Laurent would like to see a traffic study of the current needs of elderly housing. She would like to see sidewalks and benches. Additionally, she suggested a phasing plan for the project.

Ms. Crisler would like the applicant to look at the Master Plan, the property behind the proposed property in particular.

Ms. Post stated that there was some collaborative discussion among the property owners.

The Board discussed whether or not to continue or close the preliminary hearing.

**A motion was made by Ms. Crisler to close the preliminary hearing. Seconded by Mr. Guttman.**

The applicant has a year to submit the final application.

**Vote 7-0. Motion passes.**

*There was a 5-minute recess to allow the public to exit.*

**Case 2016-34 Excavation Permit (Lot 11-A-50) 14 Ledge Rd.**

An Excavation Permit Application has been submitted by Butterfield Ridge, LLC on behalf of Meadowcroft Development, LLC

Mr. Gregory stated that the application is complete. Vice Chair St. Laurent would like to ask what the process is for an excavation permit. An excavation permit must be done in a public hearing. The town's regulation says the town shall issue it. Conditions can be placed on the permit.

Section 12A states that the Planning Board can state conditions on the permit.

**A motion was made by Ms. Crisler to open the public hearing. Seconded by Mr. Guttman. Vote 7-0. Motion passes.**

Mr. Tom Burns, Project Manager with TF Moran addressed the Board. Mr. Burns stated that this is a long-term project. It will be a phased development and dependent on projects that the construction company would need material for. Mr. Burns stated there would be 16.9 acres of disturbance on a 45-acre site. The road is designed to be a private drive. Mr. Burns reviewed the drainage plan that has been updated for the site. The large drainage basins are for the 50 and/or 100-year event that could occur on the site.

The ground water flow runs east to west across the site. There is run off from the site. A swale was created to prevent water from running off the site.

Mr. Carpenter asked what the applicant would do differently based on the history of the project. He stated that he does not believe the Board is powerless and must grant the permit. Mr. Burns deferred to Mr. Glen Cairnes. Mr. Cairnes stated that his business has a

lot of experience moving ledge in New Hampshire as well as other states. The retention ponds at the bottom of the hill will be built first.

Mr. Cairnes has already consulted with groundwater consultants. Fire and police have also been consulted. The blasting practices will be different than previously. Mr. Cairnes stated that they want to be a good neighbor but they are in need of a quarry.

Ms. Post asked how this is a quarry operation and not a continuous operation. Mr. Cairnes stated that he does not plan on crushing material every week of the year. Additionally, he does think the blasting and quarry work will taken several years.

Section 606.2.9 specifically stated that a quarry is not an allowed use. Mr. Carpenter cannot see allowing an excavation permit that has blasting. Mr. Gregory is correct; an annual permit is required. They must reapply every year. There is not anywhere in town where a quarry is an allowed use. Vice Chair St. Laurent would like to see the road skewed away from the residences.

Chairman Gosselin read the comments of the Conservation Commission. That Board would like a joint site walk with the Planning Board.

Public comment was opened to the public at 10:18pm.

Ms. Joanne Vignos, 4 Meetinghouse Road addressed the Board. The wells of the property owner were fouled and they must maintain a new filtration system for their property after previous blasting on this site. The manganese and arsenic level in the water increased significantly on her property. Mrs. Vyuus submitted pictures to the Board that showed the high levels of elements in her water. The air quality and noise was also a huge impact on her residence. She stated that this project is too large to happen so close to residences.

Mr. Steve Allen, 2 Meetinghouse Road addressed the Board. He could not live in his home for almost 2 years. Mr. Allen says he spent \$180,000 to fix his home after damage had been done to his residence after the previous blasting on this site.

Mr. Greg Kindrat, 61 Haverhill Road addressed the Board. He stated that this site is too close to homes and families. He stated that the project is too close and too dangerous to begin again.

Mr. Peter Livingstone, 2 Yorkshire Road addressed the Board. He is a few hundred yards away. He stated that his entire home would shake when blasting occurred. The thought of the blasting on this site is not an appropriate use.

Ms. Theresa Marescea, 6 Meetinghouse Road addressed the Board.

Ms. Cheryl Kindrat, 61 Haverhill Road addressed the Board. The town did not notify her that this meeting was taking place. She stated that the stress the blasting caused decreased her family's quality of life.

Nancy Butcher, 59 Haverhill Road addressed the Board. She worked third shift at the time of the previous blasting and she would sometimes have to go to friend's houses to get sleep to go to her job at night.

Mr. Allen asked about a bond and whether or not it was placed on the project.

Ms. Debbie Livingstone, 2 Yorkshire Road addressed the Board. She cannot imagine how mitigating this situation would help the residents that live nearby. She stated it does not help anybody else.

Public comment was closed at 10:39pm.

Chairman Gosselin mentioned a site walk. He also mentioned how that a quarry is not an allowed use. He cited Chapter 155 Title 12 as a reason why. Mr. McLeod stated that the Excavation Permit is in itself a special exception. Mr. Carpenter stated that most of the Board is not an attorney and legal counsel should be consulted. Also, one resident who was not sent notice of the meeting; she is not technically an abutter. The developer of this project is trying to work with the community; the last project was a different project and a different developer.

The Board would like to continue this so that they can get the advice of legal counsel. The Chairman would like to reschedule a public hearing with legal counsel.

**A motion was made by Mr. McLeod to continue the public hearing to November 30<sup>th</sup> at 7 pm. Seconded by Mr. Guttman. Vote 6-0. Motion passes.**

A site walk will also be scheduled at a future date if needed.

**The motion was amended for the continuance date to be changed to November 16<sup>th</sup>. Vote 6-1. Mr. Carpenter opposed.**

Financial release

**A motion was made by Mr. Carpenter to release as recommended in the Keach memo. Seconded by Mr. Guttman.**

Ms. Post asked on what basis is the money being released.

The release of funds is based on their inspection of the road according to Mr. Gregory.

The Board asked that Mr. Keach offer a two or three paragraph summary of his findings for future financial releases.

Vote 5-2-1. Ms. Post and Mr. Guttman opposed and Mr. McLeod abstained.

**A motion was made by Mr. Guttman to adjourn at 10:57 pm. Seconded by Mr. MacLeod. Vote 7-0. Motion passes.**

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